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SUBJECT: UPDATE: PARLIAMENTARY AFFAIRS MINISTER ON
NOVEMBER LEGISLATIVE AGENDA, CT LAW, AND PLACES OF WORSHIP
LAW

REF: CAIRO 1059

Classified By: Ambassador Margaret Scobey for reasons 1.4 (b) and (d)

¶1. (C) Key Points:

-- Minister of State for Legislative and Parliamentary Affairs Moufid Shehab confirmed that the new counter-terrorism law would be submitted to parliament by March 2010 in order to go into effect before the Emergency Law expires in May 2010. However, internal disagreements remain on detention limits and how to deal with those currently detained under the Emergency Law.

-- According to Shehab, the GoE remains committed to passing the Unified Places of Worship legislation this year, but is looking at amendments they feel would assure smooth implementation.

-- Amendments to the law defining torture and draft legislation governing NGOs in Egypt may also be presented in the current session.

¶2. (C) Comment: In 2007 the GoE extended Emergency Law despite President Mubarak's 2005 commitment to lift it and could do that again, potentially postponing it to after the 2010/2011 election season. Lifting the Emergency Law before the June 2010 Shura Council election would send a signal the GoE can follow up on its commitments and implement key reforms. We continue to emphasize that new legislation on the construction and repair of places of worship is an important indicator of progress on religious freedom. We will follow up on proposed changes to the NGO Law given our continued concerns about the current registration and oversight process. End Comment.

¶3. (C) The Ambassador met with Minister of State for Legislative and Parliamentary Affairs Moufid Shehab on September 27 to review GoE legislative priorities for the November session of parliament. The Minister was accompanied by his newly named advisor, Dr. Ashraf Mohsen, Deputy Assistant Foreign Minister and MFA Coordinator for Counter-Terrorism, member of the inter-ministerial counter-terrorism law drafting committee, and recently named head of the Arab League terrorism experts group.

Legislative Agenda

¶4. (C) The Ambassador noted ongoing U.S. interest in the pending draft counter-terrorism legislation ("draft CT Law"), the Unified Law on Construction of Places of Worship ("Unified Law") and raised torture legislation and reports of a new draft NGO law. Minister Shehab said internal

discussions on the legislative agenda continued and that he expected to present a final document to the Council of Ministers at the end of October.

Draft Counter-Terrorism Legislation

¶15. (C) On the draft CT Law, the Ambassador noted the importance of lifting the Emergency Law and reinforced her earlier message that the U.S. remains concerned that any new legislation balance national security with the preservation of civil liberties. Minister Shehab agreed on the need for balance and noted the legislation was largely based on the British anti-terrorism act. Shehab confirmed that the draft CT Law would be introduced before March 2010 to ensure it is in effect before the Emergency Law expires in May 2010. However, Shehab said the drafting committee continued to discuss the maximum period of detention by police (reftel). Shehab said he had advocated against the MOI proposal of 45 days and that no agreement on a number had been reached by the drafting committee. In contrast, he explained the Emergency Law currently allows police to detain a terrorism suspect for an unspecified amount of time. (Note: In a follow-on meeting with PolOff, Dr. Ashraf Mohsen clarified that any limit to police detention eventually included in the draft CT Law would be subject to routine renewal following an application to the courts by the prosecutor. End Note.) Shehab underscored his success securing a separate "guarantee" in the Draft CT Law that would require a detainee be allowed to challenge his detention before a judge 10 days after his arrest. The draft also ensures that detainees see

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a lawyer within 24 hours (as required by Egypt's Penal Code). Shehab said Draft CT Law would not replace or duplicate the Penal Code but would add to it, creating special criminal categories and penalties.

¶16. (C) In a separate meeting, Shehab advisor Mohsen hinted at another conflict that has blocked progress in the drafting committee; how the law would deal with those suspects who are now being detained under the Emergency Law. According to Mohsen, passage of the Draft CT Law would result in the immediate release, without prejudice, of all detainees currently held under the Emergency Law. Mohsen added he had not seen reliable numbers from the MOI on the number of prisoners with this status.

Transferring Cases to Military Courts

¶17. (C) Minister Shehab confirmed the draft CT Law would not affect the transfer of cases of particular concern to the military courts. He described the military court as a rarely used option, (Note: Shehab advisor Mohsen cited only 10 cases referred to the court in the last five years. End Note) but said cases against members of the Muslim Brotherhood (MB) will likely continue to be transferred to the military courts, calling the MB a danger to the state best handled "quietly and firmly." Shehab advisor Mohsen clarified that the President's right to transfer any case from one court to another is guaranteed by Article 179 of the Constitution (as amended in 2007) which says the president may "...refer any terrorist crime to any of the judicial authorities stated in the constitution or in the law." Shehab highlighted recent improvements to the military court system, including the creation of a military appeals court. He emphasized the president's decision is "administrative" and therefore "in principle" can be over-turned by the Egyptian State Council. (Note: The State Council is a constitutionally mandated judicial body made up of sitting judges that rules on "administrative disputes" and "disciplinary cases." There is only one case that we are aware of in which a judge refuted the President's decision. In May 2007, Administrative Court

Judge Mohammed Al Husseiny overturned the president's decision to transfer MB Guidance Bureau member Khariat El Shatter's case to the military court. His decision was later overruled, and El Shatter is now serving a seven-year sentence for money laundering and planning terrorist activities. In June 2009 Husseiny became the President of the State Council after the retirement of his predecessor. End Note.)

Draft Unified Law on Construction of Places of Worship

¶18. (C) The Ambassador raised the Unified Law on Construction of Places of Worship ("Unified Law"), noting that the U.S. sees passage of a law that would equalize the construction permits process for churches and mosques as a fairness issue.

Minister Shehab reviewed the history of the Unified Law and agreed that the current mechanism in which church construction requires presidential approval is unequal and unsustainable. However, Shehab noted that the GoE, including President Mubarak, remain concerned that the Unified Law would lead to an uptick in requests for the construction of both mosques and churches and that refusals would be the subject of lawsuits that would clog the courts. (Note: It is unclear why the draft would lead to a change in the number of mosque requests. Currently mosque construction is regulated at the local level by a committee as the Unified Law proposes. End Note). Shehab said he was working on an amendment that would require that any refusal to construct a place of worship (mosque or church) be forwarded to President Mubarak for his review. Requests for repair would continue to be agreed to at the committee level. According to Shehab, the president's role is designed to help diminish criticism or resistance to the implementation of the committee's decisions.

Torture

¶19. (C) Minister Shehab indicated his Ministry was also reviewing a change to Article 126 of the Penal Code which defines torture. Shehab noted that the definition of torture in the current law defines it as a crime only if in the

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pursuit of a confession to a crime and does not conform to the definition in the UN's torture convention, to which Egypt is a signatory.

NGO Law

¶10. (C) Shehab confirmed media reports that a new draft law governing civil society organizations was being circulated by Dr. Abdel Aziz Hegazi, Chair of the General Federation of NGOs and Foundations (the NGO syndicate) that would transfer many NGO-management functions from the Ministry of Social Services (MOSS) to the Federation, including the initial authorization process. Shehab called Hegazi's efforts "a revolution" in how NGO's are viewed in Egypt and said the amendments would allow for more freedom. The Ambassador noted that the issue many NGO's raise with the Embassy is not inefficiencies at MOSS but delayed responses from the MOI in the processing of registration requests and the authorization of fund transfers from international donors. In response, Shehab and Mohsen raised money-laundering concerns, particularly to MB-affiliated groups. The Ambassador underscored the need to balance these legitimate security concerns with efforts to ensure rapid review and diminished interference in the approval process.

Scobey